

Remarks

Claims 58, 59, 85, and 86 have been amended. Claims 1-35, 45, 48, 50-56, 61-68, and 72 were cancelled in a previous Response(s). Claims 36-44, 46, 47, 49, 57-60, 69-71, and 73-96 are presented for the Examiner's review and consideration. Applicant believes the claim amendments and accompanying remarks herein serve to clarify the present invention and are independent of patentability. No new matter has been added.

Amendments to the Claims

No new matter has been added by the amendments to claims 58 and 59 made herein. These claims were amended only to correct the claim dependency in light of cancelled claims.

No new matter has been added by the amendments to claims 85 and 86 made herein. These claims have been amended only to correct inadvertent typographical errors.

Rejection under 35 U.S.C. §112, second paragraph

Claims 58 and 59 were rejected under 35 U.S.C. §112, second paragraph as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter Applicant regards as the invention. Specifically, claims 58 and 59 do not have proper antecedent basis as they are dependent upon cancelled claim 53.

Claims 58 and 59 have been amended herein for proper antecedent basis.

In light of the foregoing, Applicant respectfully requests reconsideration and withdrawal of this rejection under 35 U.S.C. §112, second paragraph.

Allowable Subject Matter

Applicant thanks the Examiner for indicating subject matter that she deems allowable; claims 36-44, 46, 47, 49, 57, 60, 69-71, and 73-96.

Applicant: P. M. Bonutti
Application No.: 10/003,996
Examiner: M. C. Hoffman

Conclusion

Although not at issue in this application, Applicant notes that the term “viable” as used in the specification has several meanings. These include capable of growing or developing; and suitable or capable of functioning for an intended purpose. As the specification contemplated at least both of these meanings, a definition of this term set forth in one application, should not necessarily be controlling in any related application.

In light of the foregoing amendments and remarks this application is now in condition for allowance, and early passage of this case to issue is respectfully requested. If any questions remain regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned. A fee for a two-month extension of time pursuant to Section 1.17(a)(2) in the amount of \$490 is believed to be due and is being paid via credit card. No other fees are believed to be due at this time. However, please charge any other fee required (or credit any overpayment) to the Deposit Account of the undersigned, Account No. 503410 (Docket No. 780-A02-014-8).

Respectfully submitted,

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